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AUTHOR Steuernagel, Trudy
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ABSTRACT

Gender neutral public policies are those that are either silent on the question of the existence of significant gender differences or incorporate a perspective which mandates that such differences be ignored. Prominent voices today contend that gender neutrality favors males and have held the male standard as the one for which women should aspire. Others argue that gender neutrality has denied the role of the family in women's lives and ignores the needs of women who reject the feminist movement. Historically, feminism has been of two types: (1) individualist, which ignores gender and makes no attempt to favor the mothering role over any other; and (2) relational, which defines women in terms of childbearing and/or nurturing capacities. One must keep in mind that the apparent dichotomy is not shaped by innate distinctions in how people think about women's lives or in how women live their lives, but by the manner in which the U.S. public policy system operates, forcing people to choose one or the other side in a fight that is not of feminism's own making. It is the system itself that has been silent on gender. Women have pushed for reforms that have given women rights equal to men and now have been challenged to use that system to provide special treatment so that women can exercise those rights. The equity and equality dichotomy threatens feminism's future cohesiveness. This need not be the case. The social construction of gender is changing, and the feminist movement must take care to guide this change. (JB)

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Gender Neutrality: Women's Friend or Foe?

Trudy Steuernagel

Kent State University

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This essay is concerned with the American feminist movement's pursuit of "gender neutral" public policies. The contemporary feminist movement's commitment to equality and gender neutral policies has resulted in a number of successes. Recently, however, a diverse array of critics has begun to question the wisdom of this commitment; and their critiques have fundamental implications for the theory and practice of feminism. Indeed, it may be argued that the question of gender neutral public policy as a desirable feminist strategy reflects even more fundamental questions about the nature and purpose of feminism itself.

A definition of "gender neutral" is in order. Throughout this essay, it will be used to refer to that stance which affirms that women and men should be treated in the same manner. That is to say, gender neutral policies are either silent on the question of the existence of significant gender differences or incorporate a perspective which mandates that such differences be ignored. Gender neutrality, accordingly, is consistent with a fundamental American political value, equality. It is to equality we turn when arguing that all citizens should receive equal treatment before the law and that all people are entitled to basic rights prior to the law. For the most part, issues identified by Gelb and Palley as "role equity" qualify under this definition as gender neutral.1 There is also similarity, as will be shown, between this use of "gender neutral" and Cott's use of

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1Joyce Gelb and Marian L. Palley, Women and Public Policies (Princeton, New Jersey: Princeton University Press, 1987).

"sameness"2 and Offen's use of "individualist."3

A review of the history of a strategy based on the concept of gender neutrality reveals its strengths and weaknesses. Prominent voices today contend that gender neutrality has "privileged the male" and has held the male standard as the one for which women should aspire.4 Others have argued that gender neutrality has denied the role of the family in women's lives and has led to an undesirable set of consequences, including ignoring the needs of a number of women who reject the feminist movement and creating problems for the future social order.5 These objections have been an ongoing part of the feminist debate in this country.

Offen, for example, argues that women and their "male allies" have used two modes of discourse in their efforts to achieve women's emancipation, the "individualist" and the "relational."6 In the individualist mode, an attempt is made to ignore or remove the subject from the reality of being as woman;

2Nancy F. Cott, "Feminist Theory and Feminist Movements: The Past Before Us," in Juliet Mitchell and Ann Oakley, eds., What is Feminism? (New York: Pantheon Books, 1986), 49-62.

3Karen Offen, "Defining Feminism," Signs, 14 (1988), 119-157.

4See, for example, Judith Stacey, "Are Feminists Afraid to Leave Home? The Challenge of Conservative Pro-family Feminism," in What is Feminism?, 208-237.

5See, for example, Sylvia A. Hewlett, A Lesser Life (New York: William Morrow, 1986) and Mary Ann Mason, The Equality Trap (New York: Simon and Schuster, 1988).

6Offen, "Defining Feminism," 134.

to wit, to make a clean break from the body. It portrays a woman as an actor in the world and makes no attempt to privilege the mothering role over any other. It does not, for example, seek state help for women based on their mothering roles. Relational feminism, a primarily European phenomenon, proposed, in Offen's words, "a gender-based but egalitarian vision of social organization."7 In contrast to what is found in individualist feminism, relational feminism defines women in terms of "childbearing and/or nurturing capacities."8 There are some profound differences between the two; and, according to Offen, we have forgotten much of the liberating potential of relational feminism as American feminists have embraced individualist feminism.9 It is also her argument that the split between the two approaches can be traced to a specific period, the years 1890 through 1920; and that it was during this time that individualist and relational feminism "appeared increasingly irreconcilable." 10 Offen notes the problems with relational feminism but also indicates that individualist feminism has been used against women and calls for a synthesis. "We must collapse the dichotomy that has placed these two traditions at odds historically and chart a new political course."11 In a vein

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7Offen, "Defining Feminism," 135.

8Offen, "Defining Feminism," 136.

9Offen, "Defining Feminism," 138.

10Offen, "Defining Feminism," 143.

11Offen, "Defining Feminism,"156.

similar to that mined by Offen, Cott speaks of the "sameness" and the "difference" arguments that have been a part of American feminism.12 She, again like Offen, notes that the two were not always as irreconcilable as some contemporary writers would suggest. Cott notes, for example, that the two were "not seen as mutually exclusive, but as juxtaposable" throughout the drive for suffrage.13 "Although the sexual 'differences' that were highlighted drew on traditional notions of women as nurturers and mothers," she writes, "the implicit constraints of conventional stereotypes were minimized by turning stereotypes to serve goals of equal access and equal rights."14

The drive for suffrage, according to Cott, gave women a basis for solidarity. It was after suffrage that the problems began. Cott argues that the paradoxes of diversity and equality, of asking for freedom by mobilizing solidarity are rooted in the conditions of women's lives.15 She also sees what Offen refers to as the individualist tradition as something that has privileged a particular type of woman: "The woman's rights tradition was historically initiated by, and remains prejudiced toward, those who perceive themselves first and foremost as 'woman,' who can gloss over their class, racial, and other status

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12Cott in What is Feminism?, 50.

13Cott in What is Feminism?, 51.

14 Cott in What is Feminism?, 54.

15Nancy F. Cott, The Grounding of American Feminism (New Haven: Yale University Press, 1987), 5.

identifications because those are culturally dominant and therefore relatively invisible." 16 The drive for suffrage allowed women to accommodate both strands of thought, both sameness and difference arguments. For Cott, the struggle over the 1920s Equal Rights Amendment signaled the beginning of what would appear to be irreconcilable strains in the women's movement.

> The battle over the ERA of the 1920s seared into memory the fact of the warring outlooks among women while it illustrated the inevitable interdependence of women's legal and political rights with their economic situations. Its intensity indicated how fundamental was the re-vision needed, if policies and practices of economic and civil life deriving from a male norm were to give full scope to women---and to women of all sorts.17

Interestingly, despite the similarities in their overall assessments of the strains and tensions within American feminism, Offen and Cott differ on a critical point. Although both make convincing arguments that the historical record shows that what we might see today as irreconcilable theories and strategies were in effect a product of particular circumstances (and, therefore, we can conclude, surmountable), they differ as to the specifics of these circumstances and the particular period in which individualist and relational or sameness and difference arguments

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16Cott, The Grounding of American Feminism, 9.

17Cott, The Grounding of American Feminism, 142.

appeared in divisive forms. Offen, as noted, identifies the crucial period as the years 1890 through 1920, the period preceding the one identified by Cott as problematic for feminism. Cott, in fact, argues that the struggle for suffrage facilitated solidarity among women. It is not the purpose of this essay to support one interpretation over the other. There is little to be gained from such an exercise. Nevertheless, there are lessons to be learned from both these analyses, lessons that have a great deal of relevance to contemporary discussions concerning gender neutral public policies. What both Offen's and Cott's work suggests to American feminism is that there is no reason why strategic concerns relating to the future of an equality based gender neutral public policy strategy need be divisive for feminism. What we need to do, if we are learn from our sister's history, is to keep in mind that the apparent dichotomy is shaped not by innate distinctions in how we necessarily think about women's lives or in how women necessarily live their lives. What is at work here is the manner in which the American public policy system operates, forcing us in effect to choose one or the other side in a fight that is not of feminism's own making. To put it another way, the lesson we learn from the history of the American feminism movement is that we must be careful not to fall prey to the belief that there are irreconcilable differences among women's interests that negate the possibility of feminist consciousness and solidarity. We must be careful in how we frame our issues and in how we bring our interests into the policy

process. Offen, for example, argues that the tensions between the individualist and the relational types of feminism were exacerbated during the years 1890 through 1920 due in part to the emphasis placed on personal autonomy by active groups within the movement as well as strong cultural and political influences that worked against an emphasis on relational concerns. In her words,

> Especially in England and the United States, individualist feminism gained momentum as increasing numbers of highly educated, single women intent on achieving personal autonomy became visible for the first time, the participation of married women in the industrial labor force became a political issue, and---most significantly---birthrates began to fall. Following the Russian Revolution of 1917 and the development of a strong anticommunist reaction in the United States during the 1920s, feminist intellectuals veered sharply in the direction of downplaying sex differences.18

Cott contends that the suffrage movement was organized in such a manner as to make these apparent distinctions within feminism a source of strength rather than weakness. Her words in describing this phenomenon are particularly compelling.

> The vote was not only a goal shared by women of divergent political leanings, it was a goal that, as understood by early twentieth-century suffragists in the

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18Offen, "Defining Feminism,"143.

> United States, harmonized the two strands in foregoing women's rights advocacy: it was an equal rights goal that enabled women to make special contributions; it sought to give women the same capacity as men so they could express their differences; it was a just end in itself but it was also an expedient means to other ends.19

For Cott, women's disenfranchisement was a "profound index and emblem of their socially constructed, humanly constructed gender difference."20 What the suffragists succeeded in doing was linking the needs and agendas of a variety of women's groups and individual women to the cause of suffrage. The emphasis was on inclusiveness and the strategy was successful, at least in terms of the drive for suffrage itself.

Gelb and Palley's work on the contemporary women's movement and the policy process demonstrate the success of "role equity issues." As they note, these are issues "which extend rights now enjoyed by other groups (men, other minorities) to women and which appear to be relatively delineated or narrow in their implications, permitting policy makers to seek advantage with feminist groups and voters with little cost or controversy."21 Indeed the prescriptive element of their work clearly would suggest that the American feminist movement would be well served

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19Cott in What is Feminism?, 53-54.

20Cott in What is Feminism?, 55.

21Gelb and Palley, Women and Public Policies, 6. Note that Gelb and Palley's "role change" does not directly correspond to the "relational" in Offen nor the "difference" in Cott.

by continuing to pursue such a gender neutral, equality based strategy. This same position is offered by Boneparth and Stoper who contend that in many ways women's policies are similar to issues in other areas in that low visibility policies, policies that conform to the existing value structure and involve narrow change are more likely to be successful.22 As indicated earlier, criticisms within the feminist movement have emerged concerning the future of this course. Specifically, the relevance of feminism to the lives of a number of American women, particularly working mothers, has for some critics23 raised serious concerns about the future of gender neutrality. Since such arguments aim implicitly at the core of American feminism's commitment to equality they cannot easily be dismissed. Hewlett, for example, contends that the American feminist movement has deliberately avoided an agenda that would accommodate the special needs of women derived from their responsibilities as mothers. In its place, the movement has chosen to emphasize abstract equality, a strategy which Hewlett believes has been seen by feminists as more effective in ending discrimination against women. Feminists, according to Hewlett, fear that if women are treated differently they will be treated as inferiors.24 Mason contends

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22Ellen Boneparth and Emily Stoper, eds., Women, Power and Policy, 2nd edition (New York: Pergamon Press, 1988.

23Several of these have been identified as "pro-family feminists." For a more detailed discussion, see Judith Stacey, "Are Feminists Afraid to Leave Home?," in Mitchell and Oakley, eds. What is Feminism?

24Hewlett, A Lesser Life.

that the major changes in women's lives were linked not to the feminist movement but to economic changes that forced them into the workplace. The women's movement's decision to argue on the basis of equality, she contends, satisfied the needs of the economy if not of the affected women.25 Both Hewlett and Mason argue that the women's movement must abandon the notion of abstract equality (and, it appears, gender neutrality as the term is used here) in favor of an attitude and agenda that acknowledges the special needs of women, particularly working mothers.

The danger of such a proposal lies with its possible consequences for women's future. Wouldn't, critics ask, such a strategy in effect institutionalize the mothering role as it currently exists? That is to say, wouldn't an acknowledgement of women's special needs as working mothers in fact make certain that women continue to bear the major burden for child rearing?26

Support for deviating from gender neutral advocacy also comes from feminists not directly identifiable as "pro-family." Kendrigan, for instance, rejects a public policy strategy that does not take into account entrenched differences. Kendrigan notes that "while treating women the same as men would provide a significant improvement in the lives of many women, treating men

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25Mason, The Equality Trap, 23-25.

26For a more detailed discussion of this point, see Gertrude A. Steuernagel and Barbara L. Poole, "Comparable Worth and Theories of Equality," paper presented at the 1989 meeting of the Midwest Political Science Association, Chicago, IL, April 13-15, 1989.

and women the same will not solve the problems of institutional discrimination."27 Instead of gender neutrality or some pro-family position, Kendrigan promotes "equality of results," a proposal that focuses on policy outcomes. "It's simply that," Kendrigan notes, "due to the complexity and durability of gender differences, any policy or procedure must be continually evaluated. The manner of that evaluation must involve evaluating results to see what impact they have had on existing inequalities."28 Since, she contends, public policy "usually reinforces existing inequalities " by favoring men or by "seemingly neutral laws that ignore the different role women play in society," 29 it is critical that we evaluate policies as to their effectiveness in minimizing existing inequalities.30

The lessons of history as well as the ongoing contemporary debate suggest an important point. We need to begin to look at the culture that creates these gender differences, that is to say, to look at why gender neutrality at this particular historical juncture is problematic for the American feminist

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27Mary Lou Kendrigan, "Why Equality of Results?" paper presented at the 1989 meeting of the Midwest Political Science Association, Chicago, IL, April 13-15, 1989, 1.

28Kendrigan, "Why Equality of Results?," 4.

29Kendrigan, "Why Equality of Results?," 8.

30Mary Lou Kendrigan, "New Directions in the Theories of Gender Differences," paper presented at the 1988 meeting of the American Political Science Association, Washington, D.C., August 31-September 3, 1988, 24.

It should be noted that both Kendrigan papers are part of her forthcoming book, Gender Differences: Their Impact on Public Policy (Westport, Ct: Greenwood Press).

movement. Gender distinctions order society, as Epstein reminds us; and society orders gender distinctions.31 From her perspective, the views of gender differences have been used by men to subordinate women.32 Men benefit from the status quo so they persist in clinging to these distinctions. In her words,

> The overwhelming evidence created by the past decade of research on gender supports the theory that gender differentiation---as distinct, of course, from sexual differentiation---is best explained as a social construction rooted in hierarchy, not in biology or in internalization, either through early experiences, as described by psychoanalysts, or through socialization, as described by psychologists and sociologists.33

Additional remarks by Epstein suggest a promising approach for looking into the question of gender neutrality. Consistent with her notion of the social construction of gender differences, Epstein goes on to argue that people learn what emotions to feel in an institution and they work on themselves to feel what they are supposed to be feeling.34 She quotes research that indicates "that institutions vary considerably in the ways in which gender is made salient; in this way, they account for the variations in

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31Cynthia Fuchs Epstein, Deceptive Distinctions (New Haven: Yale University Press, 1988), 6.

32Epstein, Deceptive Distinctions, 8-9.

33Epstein, Deceptive Distinctions, 15.

34Epstein, Deceptive Distinctions, 84.

the division of labor in different historical periods and places."35 This may well be the key to understanding the question of gender neutrality. How does, for example, the policy process in this country make gender salient? Does this vary in respect to state, local, and national issues? According to Epstein, "(A)ll societies similarly spell out by rules and laws their preferred organization of the sexes, enunciating the social roles women and men are expected to play."36 Rather than focusing primarily on questions of whether or not there are gender differences and how significant and profound they might be or on whether or not feminists should pursue a "sameness," "individualist," "role equity," or "gender neutral" strategy, this approach redirects concern to the reason why gender neutrality has become an issue and to the dynamics behind why it has appeared in the context of forcing a choice between supporting positions grounded in equality or those grounded in differences.37

A brief overview of the case of women and health care policy will demonstrate the utility of this approach. Pregnancy leave is a case in point. Although admittedly not a health care issue per se, it does involve questions directly linked to women's health. Protective policies in respect to pregnancy were

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35Epstein, Deceptive Distinctions, 100.

36Epstein, Deceptive Distinctions, 119.

37Epstein herself provides an interesting discussion of the origin and function of such dichotomous thinking. See, for example, Epstein, Deceptive Distinctions, 12-16.

intended to help women; but, in many cases, they hindered opportunities for overtime pay and promotion.38 According to Huckle,

> Advocates for change see women as full members of the labor force, not exactly as men are, but as women who are workers and who also bear children. The traditional perspective is that if women are to be employed, they must not expect more than equal treatment---meaning the same as what men receive.39

These comments serve to illustrate the extent to which women's issues are affected by the conception of gender that guides this culture's thinking about women. Although we commonly link women and children (for purposes of life boats and similar cultural verities), we neglect to think of women's connection to children as embodying a social dimension.40 The reasons behind this are manifold. Liberal individualism, conceptions of property, and feminism's own commitment to equality are among them. Gender in this culture, both in the manner in which it affects how we think about women and how women's issues enter into the public policy process, is confusing. It links women with childbearing yet it abstracts women from the physical

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38Patricia Huckle, "The Womb Factor: Policy on Pregnancy and the Employment of Women," in Boneparth and Stoper, Women, Power and Policy, 132.

39Huckle, "The Womb Factor," 138.

40At least, it must be clarified, as long as it relates to responsibility for the care of children. Ironically, the social concern for children appears to end with natality.

realities of pregnancy in order to insure fair and equal treatment. We have a cultural approach-avoidance conflict about motherhood in general, e.g. is the decision to bear a child at a particular time a voluntary one and should the woman bear the costs for the decision?, and this is reflected in debates such as those surrounding the 1978 Pregnancy Discrimination Act. Society needs to reproduce itself and society benefits from the future contributions of children. Clearly, children are a social good, yet many employers view the production of children as a purely personal and private act. Women who seek to maintain employment and become mothers are forced to assume the costs of producing a social good. If, as the history surrounding the Pregnancy Discrimination Act and its aftermath reveal, they attempt to seek relief they face another seemingly untenable dilemma: if pregnancy is treated like any other disability, then they tacitly consent to the view that there is not a social dimension to their need (or, at least, no more so than any similar disability such as a heart condition) and that what is required for pregnancy is simply what is required for any other ailment or they must accept the position that working mothers need different treatment. Historically, this "different" is treated as "inferior;" and, therefore, American feminists, in the main, have had to reject "different" in their struggle to reject "inferior."

In turn, feminists have embraced an equality based gender-neutral strategy. Yet, as has been noted, this strategy may threaten not only feminism's ability to attract working mothers

to its ranks but its ability to continue to improve the lives of all women. No where is this more germane than in the area of health care for the elderly, since, as we are all well aware, ours is an aging population. Will gender neutral policies be adequate to cover the needs of elderly women? Medicare serves as a case in point.41 American women, on the average, live longer than American men. Gender and race clearly affect life span. White women, for example, live some 7.4 years longer than white men; and black women some 9 years longer than black men.42 Women, moreover, are more likely than men to spend time in a nursing home and to visit a health care practitioner. Furthermore, since women are disproportionately represented among the poor and the elderly, they are more likely than men to be dependent on government assistance for health care. Clearly, any cut in Medicare would threaten women even more than it would men. Yet to ask special treatment for women could be perceived as asking that men be denied some benefits, since it appears there is a finite limit on the amount of funds we as a nation are willing to commit to health care for the elderly. The reasons why women place more demands on the Medicare system are complex. Some have to do with reproduction and its lasting effects on women's bodies. Others have to do with an interconnected array

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41Much of this discussion borrows from Gertrude A. Steuernagel and David W. Ahern, "It's a Heartache....: Women and Health Policy," in M. Margaret Conway, ed., Women and Public Policy (forthcoming).

42Minorities and Women in the Health Force, 1984 edition, U.S. Department of Health and Human Services, 25-26.

of cultural practices derived from our expectations for appropriate women's roles. Women, for example, are more likely to nurture and care for an elderly spouse in the home than are their male counterparts. Women, because they tend to outlive their spouses and because their spouses are less likely to care for them in the home, are more likely to spend time in a nursing home. Yet in those areas such as nursing home care and long term care where women show greater patterns of usage than men, Medicare provides little coverage.43 To view it from a different perspective, it is useful to ask: what changes would have to occur for men and women to place equal demands on the Medicare system? For a start, life expectancy rates would have to be equalized. Men and women would have to be equally likely to care in home for stricken spouses. Women and men would have to have equal access to private health insurance. Even then, there would be significant differences, unless it was medically possible to counteract the impact made on women's bodies from reproduction. Clearly, health care policy is not gender neutral yet the reality of this is much simpler to comprehend than the solution. What would be the implications of asking for special treatment for women if the current differences between men and women were to maintain? As noted, immediately such a strategy would be suspect unless we committed ourselves to adequate health care for all citizens and allowed "adequate" to be defined in each individual

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43Karen Davis, "Women and Health Care," in The American Woman 1988-89 (New York: W.W. Norton and Company, 1988), 164.

case. Otherwise, it would appear to require that males' benefits would be negatively impacted in order to insure adequate coverage for females' special needs. Sameness and differences arguments derive not from some inevitable dichotomy within the women's movement but from social practices, that is, from what it means to be a woman in terms of factors such as access to health insurance through employment and expectations in respect to childbearing and care for family members. Women have greater need for nursing home care, for example, not because an interest group is seeking it for them but because of how our society constructs gender.

Arguing that the source of a problem is located elsewhere than is commonly believed does not, however, make the problem any easier to resolve. Nor is it likely that the problem will disappear any time soon. During certain historical periods, a gender neutrality strategy has served women well or, at the very least, has helped particular classes of women and not disadvantaged others. It is due in part to the successes of an equality based strategy that the current dilemma exists. The realization in many of life's arenas of the promise of equality for women has now become part of our social construction of gender. The feminist movement will continue to be faced with the challenge to an equality based strategy if we do not attend carefully to this emerging new social construction. Women with equal rights create a different world; they do not simply complement a world populated by men with equal rights. The

successes of the feminist movement have profound consequences for the production of wealth as well as for the reproduction of children. To ask for special treatment for women is to acknowledge the legitimacy of outmoded social roles for men as well as women. This is not to say that public policy can ignore the special needs of women because of the legacy of their roles. It is fine to say, for example, that women and men should share the responsibilities for child care; but the truth remains that the primary responsibility for child care remains with women. Likewise, it is easy enough to say that elderly men and women should have equal access to health care but more difficult to insure that legions of elderly women are provided with adequate nursing home and long term care. We need to take care that proposed measures to help women do not institutionalize old injustices. Calls for parental leave rather than maternal leave are a step in the right direction, but adequate care must be taken that men and women alike exercise this option, should it ever become a reality in this country. Affordable and convenient quality day care is another important tool in shaping the newly emerging social construction of gender. Equally important are those efforts directed at eliminating the wage gap. Comparable worth is extremely important as an interim measure until the effects on salaries of occupational segregation and sexual discrimination are eliminated. Needless to say, the current drive to bring feminists into the public policy process itself is crucial.

Feminism assumes the significance of gender. Gender neutral policies seek genderless justice in a thoroughly gendered environment. Despite this apparent inconsistency, gender neutral public policies have been a significant part of the feminist agenda in this country's history. But are gender neutral policies women's friend or foe and what is their future in terms of the feminist agenda? The brief discussion of women's health issues contained in this essay suggests caution in the pursuit of gender neutral policies. The overall thrust of the essay, however, is not sympathetic with those who seek policies to compensate women for differences when those differences are the product of a socially constructed definition of gender that institutionalizes injustice. Unfortunately, the history of gender as treated by the public policy process in this country is not pretty. It is the system itself, for the most part, that has been silent on gender. Women have pushed for reforms that have given women rights equal to men and have now been challenged to use that system to provide special treatment so that women can exercise those rights. The difference and sameness, equity and equality dichotomy threatens feminism's future cohesiveness. But this need not be the case. The social construction of gender is changing, but the feminist movement must take care to guide this change.